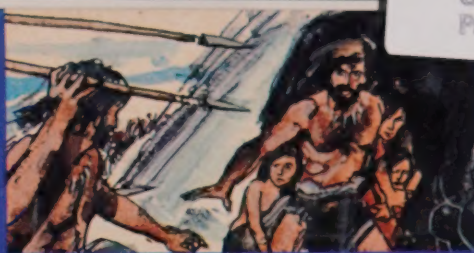


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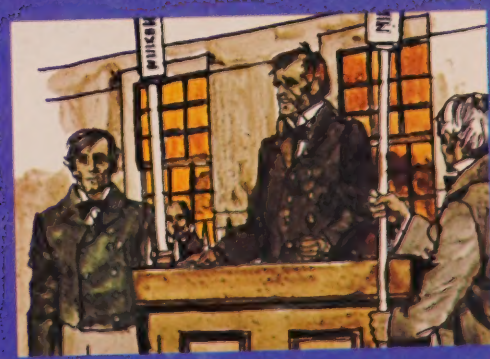
The growth of
**THE LAWS WE
LIVE BY**



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Justice



The growth of
THE LAWS WE
LIVE BY



The growth of THE LAWS WE LIVE BY



*The hockey game was spoiled
by an argument about the rules.*

The boys were arguing so much that the hockey game wasn't any fun at all.

"You were offside!" Bill Johnson claimed.

"Who says so?" Jim demanded.

The other boys joined in the argument. But none of them knew the rules well enough to settle the matter.

Officer Towers stopped to watch the boys as he walked through the park on his way home from work.

"Sounds like you fellows need a referee," he said with a smile. "I'll be glad to lend a hand."

The boys agreed that this was an excellent idea.

They arranged to meet the next afternoon for another game.

One of the boys, Bill Johnson, lived a few doors away from Officer Towers, so they walked home together.

"That's the worst hockey game I can remember," the boy said. "We couldn't agree on the rules. You're certainly right when you said we need a referee!" Then he added with a grin,

"That should be an easy job for you. A referee is a lot like a policeman, isn't he?"

"There is one important difference," Officer Towers said. "The referee decides who has broken the rules, and what penalty to apply. A policeman doesn't make those decisions. They are made by the courts."

"But you can give out speeding tickets, can't you?" Bill asked.

"Yes, but the motorist has the right to go to court if he feels the policeman has made a mistake."

As they stepped off the curb to cross an intersection a car drew up at a stop sign.

"What do you suppose would happen if there were no traffic signs, or traffic laws of any kind, Bill?" the policeman asked.

"I guess it would be as confusing as our hockey game. People would be arguing about how they should drive. And there probably would be a lot more collisions!"

"That's right. Laws are something like the rules of a game. Or the rules you have at home

and at school. We'd find it hard to get along without them."

"I never thought of it that way before," Bill said.

THE LAW OF THE JUNGLE

Bill Johnson's conversation with Officer Towers gave him an idea. He decided that the story of laws would be a good subject for a school project he'd been asked to prepare.

The next afternoon, he asked his teacher how laws began.

Miss White reached for a book on the shelf beside her desk. She opened it at a picture of men wearing furs and carrying wooden spears.

"Do you suppose these people had laws?" she asked Bill.

"Gosh no," he said. "Cave men didn't even have policemen!"

"I imagine every man was his own policeman. The best fighters probably had everything their own way. That has been called 'the law of the jungle'."

"They must have spent all their time fighting," Bill said.

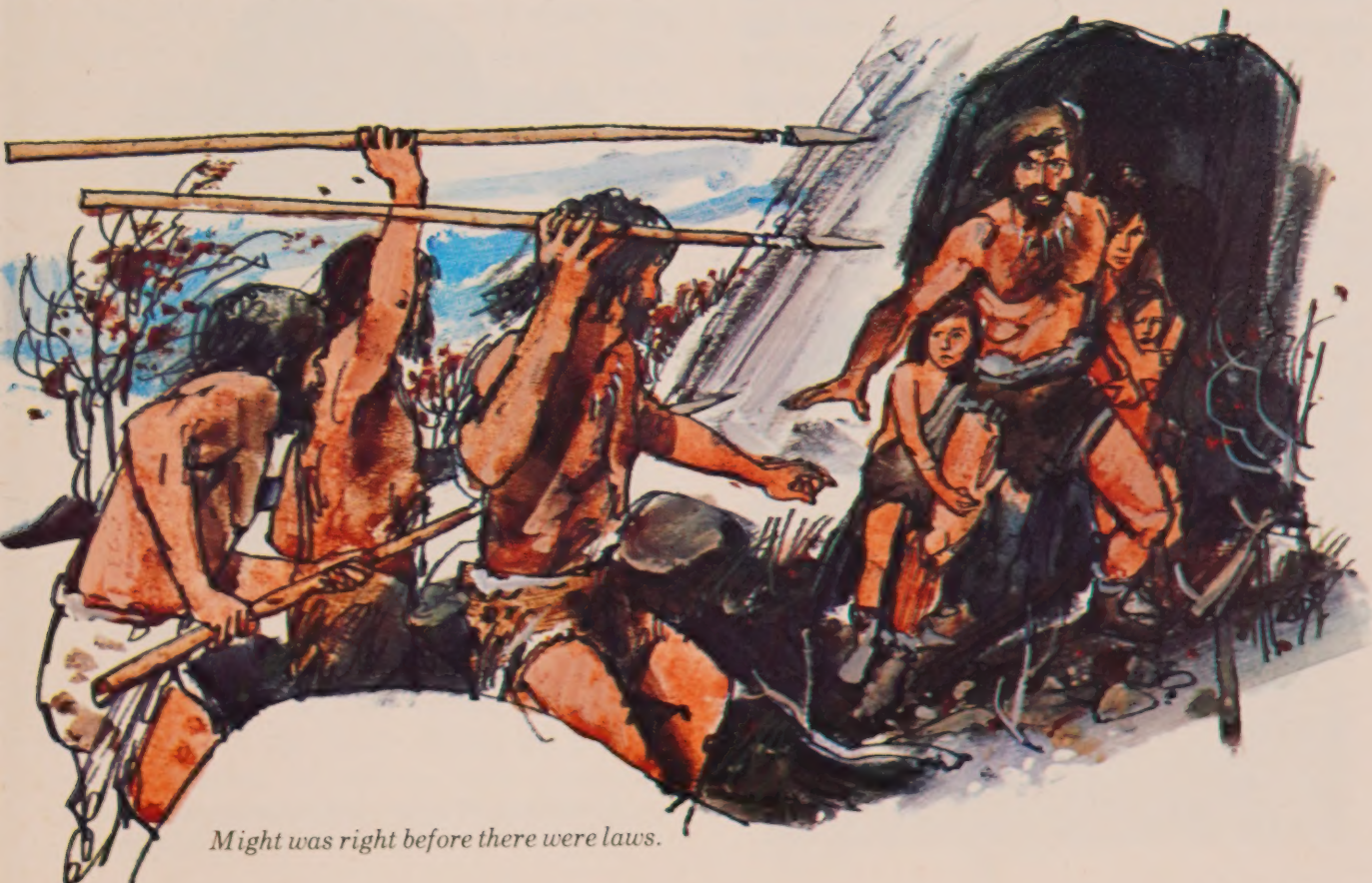
"No, I don't think so. Every society has rules of behaviour to prevent constant arguments.



Bill Johnson asked his teacher how laws began.

But I don't suppose they needed very many laws. People in those days usually lived simply in small groups, because if thousands of people had lived in one place they would not have been able to find enough food."

"When did our kind of laws begin?" Bill asked.



Might was right before there were laws.



Laws as we know them began when early farmers began to live in villages.

THE BEGINNING OF WRITTEN LAWS

"Laws began when people learned how to grow their food," Miss White replied. Bill looked puzzled.

"You see," Miss White explained, "after people discovered farming, they gathered in larger numbers in fertile areas near rivers like the Nile, Tigris and Euphrates. They settled down in villages. Population increased and life became a good deal more complicated."

"I suppose there were a lot more people to argue with," Bill suggested.

"That was part of it. There was also more buying and selling, so laws were needed to make sure everyone was fairly treated. Other laws were needed to protect their farms and homes."

"Who made the laws?"

"Probably the chieftain in many cases. Of course, before writing was invented, the rulers could change the laws to suit themselves."



"That must have been very confusing for the people," Bill said, remembering the hockey game of the day before.

KING HAMMURABI'S CODE OF LAWS

"You're right about that, Bill," Miss White nodded. "That's why it was so important when a Babylonian king named Hammurabi collected all the laws of his country, and had them carved on stone pillars, about four thousand years ago. The people could know what they should and should not do, and what punishments they could expect if they broke the laws."

"What were those laws like?"

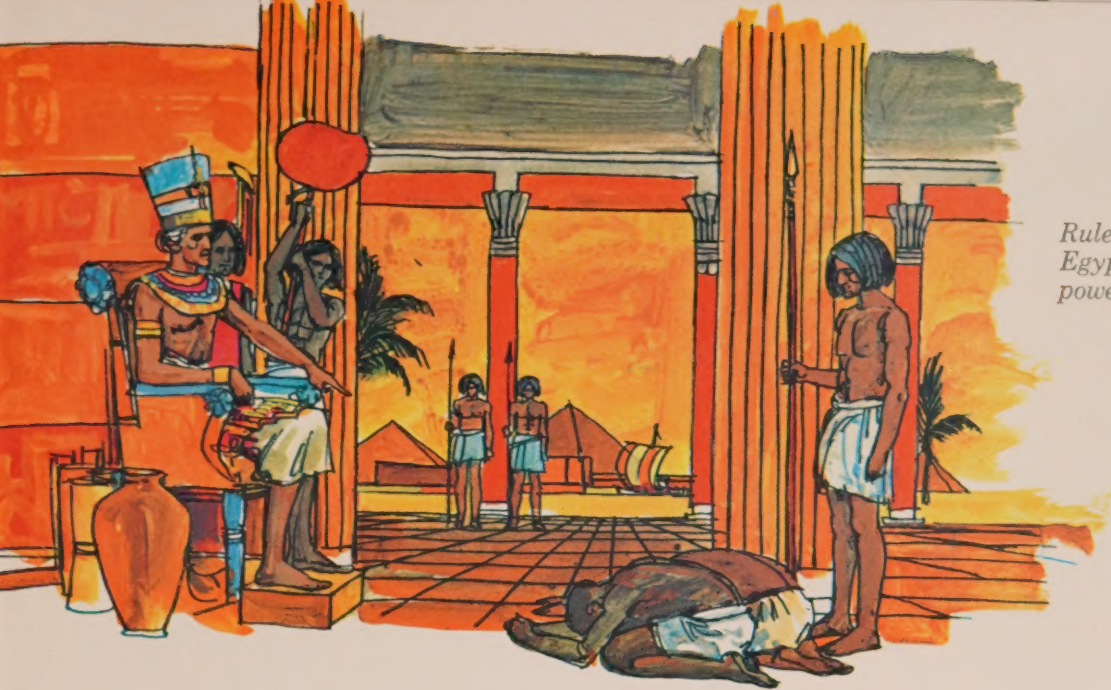
"Many of Hammurabi's laws would seem cruel and strange to us. For instance, a doctor could be executed if his patient died. The son of a murderer could be put to death."

"Why did people put up with laws like that?"

Miss White replied, "The King probably based his Code on the customs of the times. So the people saw nothing strange about the laws. And there wasn't much they could do about it even if they didn't like the laws."



The Code of Hammurabi was carved on stone pillars in the cuneiform writing of Babylon.



Rulers like the Pharaohs of Egypt had life and death power over the people.

RULERS MADE LAWS TO SUIT THEMSELVES

"Rulers like Hammurabi or the Egyptian Pharaohs had strong armies to make people obey the laws. Punishment was very harsh. And the people were not able to choose their rulers as we do in Canada."

"Were all the laws cruel and unfair?" Bill asked.

"No, of course not. Many of the rulers were interested in the welfare of their people. Religious leaders also helped to make laws that were fair. For example, the Ten Commandments were given to the Jewish people by Moses thousands of years ago. But they contained so much wisdom that we still try to live by their teachings. Many of our laws had their beginnings in the Bible."

HOW DEMOCRACY BEGAN IN ATHENS

"Who makes the laws in Canada?" Bill asked.

"This is a democracy, Bill," Miss White said.

"That word comes from two Greek words. 'Demos' means people and 'ocracy' means rule."

"So democracy means rule by the people," Bill concluded. "I guess that means we all make our laws."

The teacher nodded. "Democracy began in a Greek city called Athens. Instead of letting a few people run the city's affairs, the men of Athens gathered to discuss their problems. They voted on the laws that they felt would help their city."

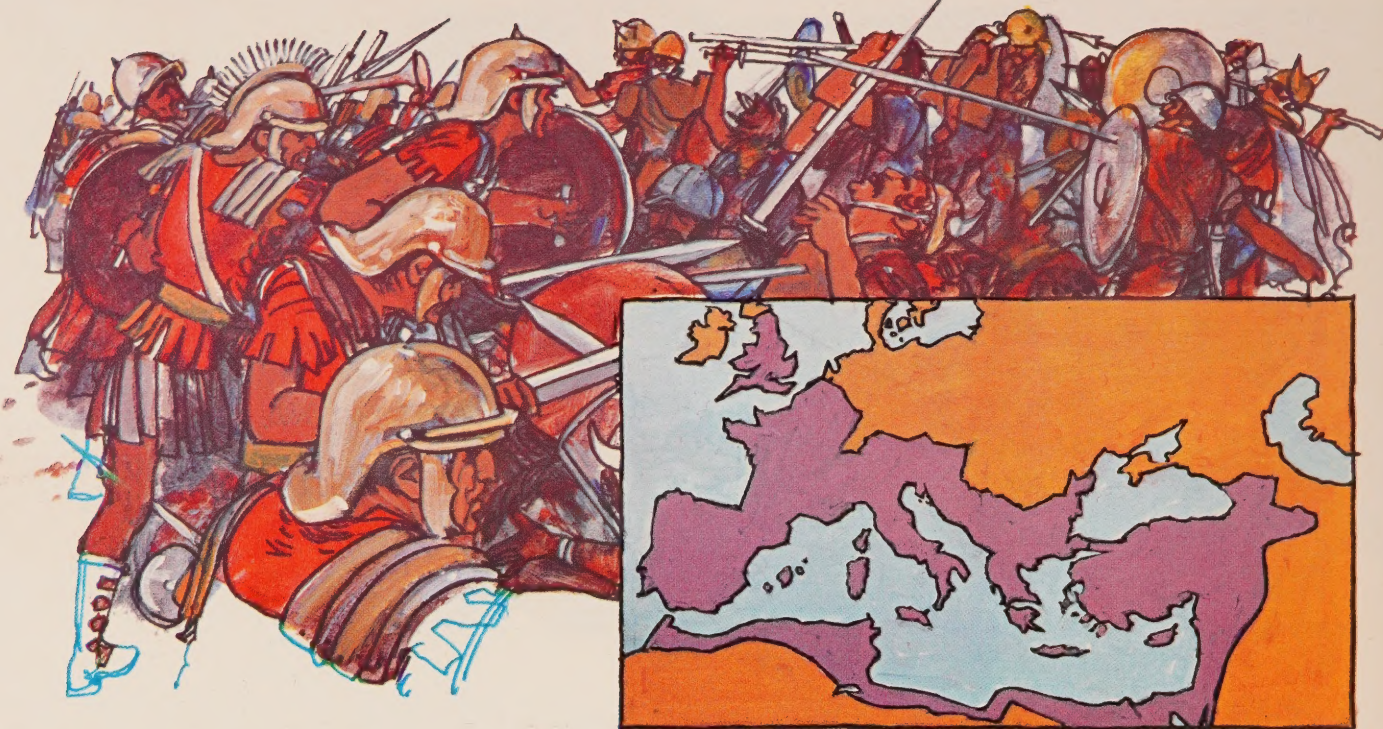
"That sounds like the best system."

"Yes, but Athens was a very small city. That method could never work in a large city or country. And you'll remember I said the *men* of Athens made the laws. The women had no voice in making the laws. And there were also many thousands of slaves who were not able to express their opinions."

"So it wasn't rule by *all* the people, was it," Bill said.

The men of Athens gathered to discuss the affairs of their city, which was the birthplace of democracy.





Efficient Roman armies spread Roman law and order.

"No, it wasn't. But the democracy of Athens was an important beginning," the teacher said. It started the idea that people should be allowed to choose their own rulers and lawmakers."

THE LAWS OF THE ROMANS

"Did the idea of democracy spread from Greece to other countries?" Bill asked.

"Not at that time," Miss White answered. "For example, in its early years the city of Rome in Italy was ruled by senators chosen from the leading families. But, as time passed, all the power passed into the hands of the Emperors, who ruled as dictators."

"The Romans admired Greek philosophy, art and literature," the teacher continued. "And they copied many Athenian ideas about laws. But the Romans felt that the Athenians were impractical dreamers when it came to government."

"The Romans conquered the Greeks, didn't they?"

"Yes, they conquered almost all the lands that surrounded the Mediterranean Sea, as well as most of Europe and Britain."

"They must have been great fighters," Bill commented.

"The Romans were very efficient at everything they did. Their armies were very well

trained and equipped. Their engineers created wonderful highways and buildings. And their system of laws was also very efficient. Many people say that the law system was the greatest achievement of the Romans."

"Did they have a code of laws like Hammurabi's?" Bill asked.

"Yes, about 1500 years ago, the Emperor Justinian had all the Roman laws brought together and published. The Justinian Code has

After the Roman Empire collapsed, there was little law and order to protect the common people.



had a lasting effect on the laws of many countries conquered by the Romans, such as England and France.”

“What happened after Rome was defeated?” Bill asked. “Were the people still protected by Roman laws?”

“There were no strong governments to replace the Roman rule. So there was a breakdown in authority. The people had little protection from bandits and tribal chieftains. Powerful men seized the land, and the common people lived almost as slaves. Art and literature were forgotten, except by monks of the Church. This period of history has been called the Dark Ages. It lasted for several hundred years.”

“Were there no laws at all?” Bill asked.

“Yes, but they were turned often against the poor people, who could be killed or imprisoned without cause.”

MAGNA CHARTA

“The English Barons eventually helped the people when they forced King John to sign the Magna Charta in 1215,” Miss White continued.

“Oh yes,” Bill exclaimed. “I’ve heard of that.”

“I’m sure you have. It has been called the foundation of English justice.”

“So the barons were concerned about the common people after all,” Bill said.

“Not as much as you might think. The barons were much more interested in protecting themselves from the growing power of the king than in helping ordinary people. When King John signed the Magna Charta, he was admitting that even the king was not above the law. He could no longer imprison barons and other people without a fair trial. Nor could he take their lands and money. The Magna Charta also called for a system of honest weights and measures.”

“So everyone benefited from the Magna Charta, didn’t they?” Bill asked.

“The problem was that the common people had no power to make the rulers obey the law,” Miss White said.

“Then why was the Magna Charta so important?”

“Because it contained some very important ideas about justice. It stated that even rulers



When King John signed the Magna Charta, he was admitting that even the ruler must obey the law.

must obey the law.

It said that every man should have a fair trial. For hundreds of years, many brave Englishmen risked their lives to win the protection promised by the Magna Charta.”

THE BIRTH OF PARLIAMENT

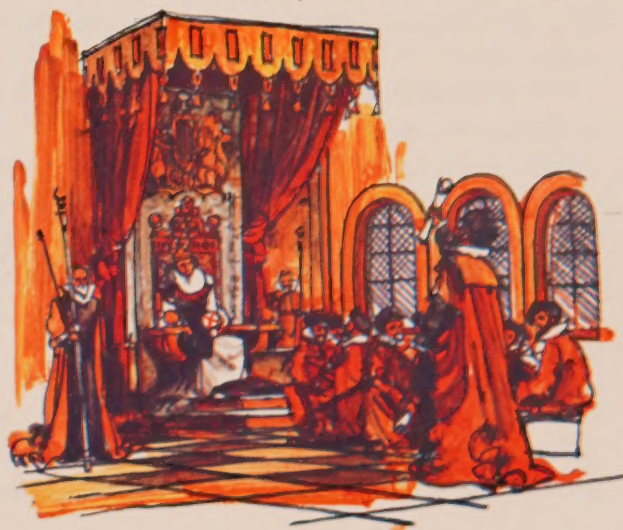
“How did they eventually succeed?” Bill asked.

“As I said before, the common people had no way of making their rulers obey the laws. It was only when the people could choose their own leaders to speak for them in Parliament that they could be sure of receiving justice.”

“How did Parliament begin?”

“It started in 1265 when Simon De Montfort,

Parliament began when early English kings called on the nobles for advice—and money.





Harsh punishment could not prevent crime because there was no effective law enforcement.

an English Baron, objected to the constant demands for money by King Henry III to fight his wars. So Simon summoned a group of barons together to resist the King. And he also asked two knights from every shire and two burgesses from every town to attend the meeting with the King. Nothing much was achieved at that meeting. But King Henry called the same group together next time he wanted to raise taxes, and it became a custom."

"Did the early Parliament have any power?" Bill asked.

"The kings usually called Parliament into session only when they needed money, and Parliament usually refused to give it unless the king obeyed the Magna Charta. For hundreds of years, there was a see-saw struggle for power between parliament and the king. As time went by, Parliament became more and more powerful."

"Was the Parliament in those days the same as the one we have in Canada?"

"Far from it. In Canada, millions of citizens take part in electing our representatives in Parliament. In early times, only the wealthy and powerful decided who would go to Parliament. So they did not always pass laws to help the poor people."

LAWS ALONE WERE NOT ENOUGH

"There were a great many laws in England long before the first Parliament," Bill's teacher

continued. "When the Normans conquered England in 1066, they brought laws that were based on the Roman Justinian Code. But having laws does not necessarily mean there is justice."

"I guess it depends on the kind of laws," Bill suggested. Miss White nodded. "Some of those early laws were very cruel. A hungry peasant could be executed for killing a deer on his master's property. Many poor people had to choose between stealing and starving. Until a few hundred years ago, a boy your age could be hanged for stealing a loaf of bread. But even terrible punishment could not prevent people from breaking such cruel and unfair laws."

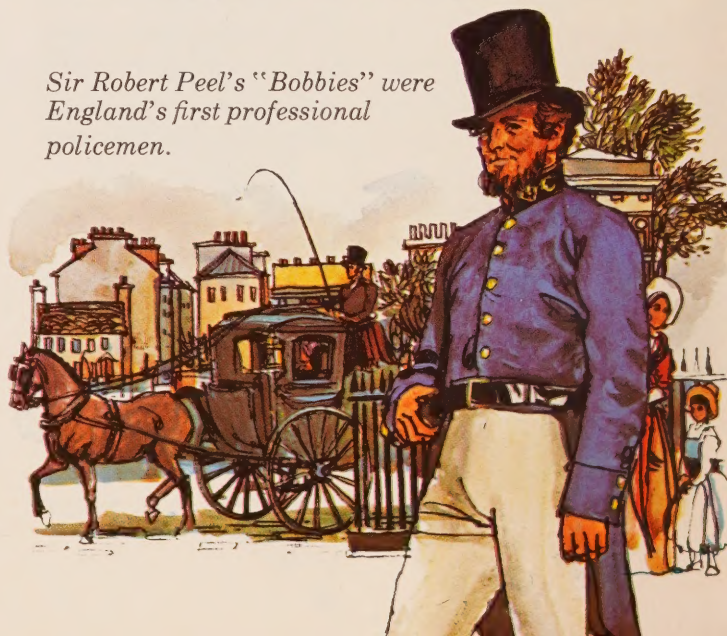
"Of course, not all crimes were committed by hungry, desperate people struggling for survival," Miss White continued. "There were also robbers who grew rich by stealing."

"So the police were kept busy," Bill said.

"There were no full-time policemen in those days. That was part of the problem. Soldiers and ordinary citizens tried to enforce the laws. But they were not properly trained or organized," Miss White explained. "The situation became desperate as cities grew larger. It was unsafe for a law-abiding person to walk the streets of London."

"In 1829," Miss White continued, "an Englishman named Robert Peel organized the first full-time police force in London. Many people were afraid that the 'bobbies' would enslave them. But they soon realized that well-trained policemen are needed if laws are to protect the people. The 'bobbies' soon won the trust and respect of law-abiding people."

Sir Robert Peel's "Bobbies" were England's first professional policemen.





Some Indian tribes chose warriors to maintain peace in the camp.

THE LAWS OF EARLY CANADA

"How did law and law enforcement start in Canada?" Bill asked.

"When white men arrived, there were hundreds of thousands of Indians and Eskimos living here. They had many laws and customs."

"Were their laws the same as ours?"

"No, because the Indians had a very different way of life," Miss White replied.

"How did they enforce their laws?"

"I imagine that most people obeyed the tribal customs because they were trained from childhood. In many tribes, the people chose the chiefs. So there was a form of democracy in Canada long before the white man came. Some tribes had policemen similar to ours. For example, tribes on the western plains gave the

best warriors the responsibility of keeping peace in the encampment."

"What kind of laws did the white men bring to Canada?" Bill asked.

"Very similar to the laws they had known in France and England. When Canada was established as a nation in 1867, all the laws then in force were continued. So our system of laws in Ontario is very similar to the English system." Miss White said.

"How were the laws enforced?" Bill asked.

"In pioneer days, every large settlement had a military garrison. The soldiers served as



The North West Mounted Police was formed to prevent lawlessness on the prairie frontier.

policemen. This system probably worked well enough when there were few people living here. But, as time passed, civilian police forces similar to the English 'bobbies' were established. Canada's first regular police force was organized in Toronto in 1837."

"How about the Mounties?" Bill asked.

"They were formed in 1873 to keep peace on the western plains. At that time, there was a great deal of crime in the western part of the United States. The Canadian government was afraid that the same thing would happen in Canada. So they established the North West Mounted Police. The name was later changed to the Royal Canadian Mounted Police."

"What kind of things do the Mounties do now?" Bill asked.

"Perhaps you should ask Officer Towers about that," she suggested.



Soldiers enforced the law in pioneer settlements.

Officer Towers explained the duties of Canada's police forces.



A few days later, Bill met Officer Towers after school and asked him about the work of Canada's policemen.

"There are three types of police forces in Canada," Officer Towers explained. "They are the municipal police, provincial police and the R.C.M.P."

"The municipal police force enforces the federal and provincial laws in our city as well as local by-laws. Almost all towns and cities in Canada have their own police force. In some small communities, there may be just a few men on the force. But a large city may have hundreds or even thousands of policemen on duty."

"Ontario and Quebec have provincial police to enforce the laws outside the cities and towns, as well as in communities that do not have a municipal police force."

"I guess enforcing the traffic laws on the highway is a big part of Ontario Provincial Police work," Bill said.

"Yes it is, but they have many additional responsibilities in the areas not served by

municipal police.

"The Royal Canadian Mounted Police is a federal force," Officer Towers continued. "It serves as the provincial police force in eight of the provinces as well as in the Yukon and Northwest Territories."

"It must take a lot of training to be a policeman," Bill said.

"Yes, it does. In the first place, a policeman must understand the laws he enforces. Not all crimes are as clear-cut as bank robbery. And yet the policeman often has to decide instantly if a law is actually being broken when he sees something that seems wrong."

"I suppose you study fingerprinting and things like that, do you?"

"Yes, police work is getting more scientific all the time. Many crimes are solved by scientists in police laboratories. The policemen at the scene of the crime must know how to gather evidence that will help scientists find the answers."

"I can't understand why anyone thinks they can commit a crime without being caught!" Bill commented.

Officer Towers shook his head. "I wish more people agreed with you. The fact is, there is an increase of crime these days. And the police certainly don't find all the law-breakers. That's





Today's law enforcement officers must be trained in crime detection, traffic control, law, human relations and other fields.

why it is so important that law enforcement methods keep on improving. And we also need the help of the law-abiding citizens."

"Do you think most people would break the law if they thought they could get away with it?" the boy asked.

"Of course not. Most people realize that laws are for their own protection. For instance, they know that driving through a red light can cause collisions. Of course, some people who break the traffic laws are just being careless. They drive at high speeds without fully realizing the dangers."

"But some of them get pretty angry when a policeman gives them a ticket," Bill pointed out.

"I guess that's human nature," Officer Towers said with a smile. "Nobody likes to

admit that they've made a mistake. But they should remember that policemen don't *make* the laws. The public employs policemen to enforce the laws of the land. We'd be falling down on our job if we looked the other way when we see laws being broken." Then he added, "If people could see as many smashed cars and injured motorists as policemen do, they'd realize that it's just good common sense to obey the traffic laws."

"Policemen do many things beside enforcing laws, don't they?" Bill said. "Last year a policeman came to our school and gave us some tips on riding our bicycles safely."

"That's right. A good deal of our work is not connected with arresting lawbreakers. As a matter of fact, we are more interested in preventing crime than in finding criminals. That's why we check to make sure that stores and other businesses have securely locked their doors for the night. Policemen on highway patrol are there to discourage motorists from breaking the law. And I guess that's one reason so many of us are working with youth groups of various kinds. We're trying to prevent youngsters from making that first mistake that can ruin their lives."



Without policemen to enforce traffic laws, there would be many more traffic accidents. Making sure that stores have locked their doors at night is one of many ways they prevent crimes. Of course, policemen are often called on to help people in trouble.



THE LAWS OF CANADA

Bill had learned about the history of laws and law enforcement from his teacher.

Officer Towers had explained the work of today's policemen. But Bill realized that his school project should also discuss the laws of Canada, and how the courts decide who has broken them.

So he visited his Uncle Ted, who is a lawyer.

Bill explained that he was working on a school project and then said, "My teacher has told me about the law codes of Hammurabi and Justinian. Do we have a code of laws in Canada?"

"Yes indeed, Bill," the lawyer replied. "The most important set of laws is the federal Criminal Code. Many parts of this Code are designed to make sure that people accused of crimes receive a fair trial. Other parts list crimes and the punishments for breaking the laws. These include crimes such as murder, robbery, riot and treason. The Criminal Code applies to all parts of Canada."

"The provincial governments have responsibility for other laws," Bill's uncle continued.

"For example, they make laws to control traffic on the highways. Provincial laws also deal with the sale of liquor, with hunting and fishing, and with a great many other things."

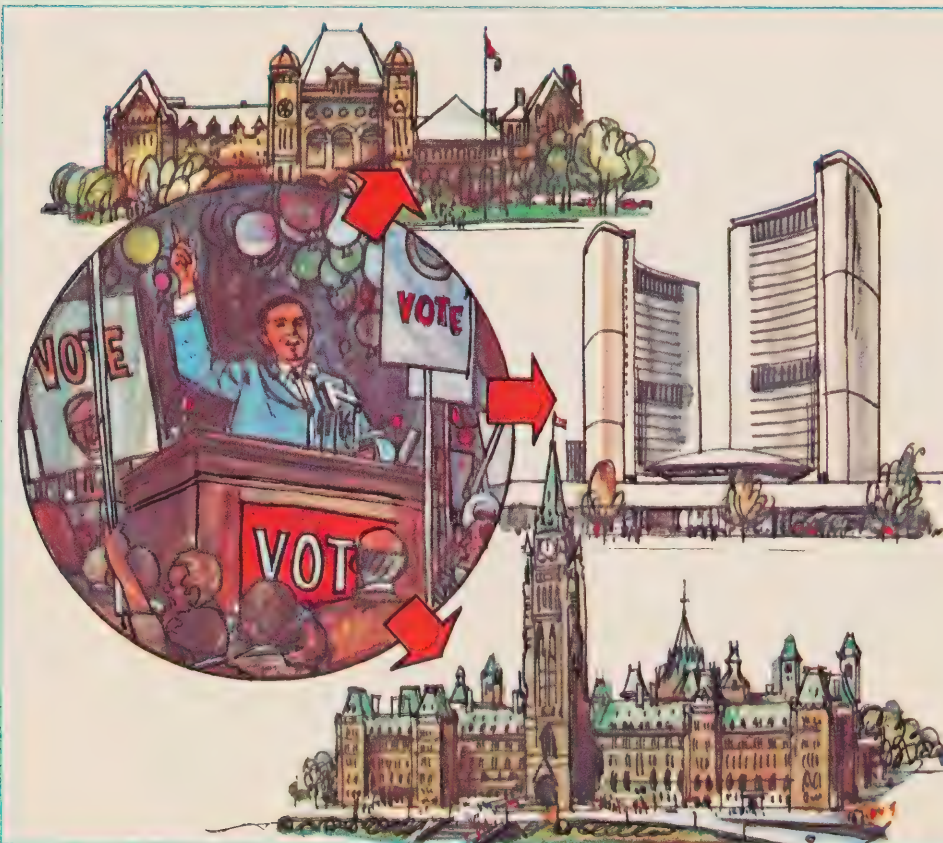
"Do towns and cities make laws too?" Bill asked.

"Yes, municipal by-laws cover such things as pedestrian crosswalks, parking, and many other matters."

"Why isn't there one set of laws for all parts of the country?"

"Well, conditions are quite different across Canada. For example, speed limits that may be fine in some provinces with super highways may not be suitable for other provinces with single-lane highways. The large city has different needs than a small town. And we also have special laws and courts for young people and for family matters."

"We have two basic kinds of laws in Canada," Bill's uncle continued. "First, there is the written law, such as the federal Criminal Code and provincial and municipal laws. There is also the common law, which is often called the unwritten law."



In a democracy like Canada, the people make their own laws. Elections are held from time to time to choose people to speak for us in municipal, provincial and federal government. If we believe that a law should be changed, we can write to our representative. If enough voters disagree with the laws made by the government, different people may be elected when the next election comes along.



Our courts of law carry on traditions of justice that began many years ago. Procedures have changed over the years to protect the accused from injustice. Court officials carried staves on which were carved the name of the township.

"The written law depends on the will of the legislature."

"The unwritten laws or common laws depend for their authority upon the wide recognition given by the courts to customs and practices which have existed through the years."

"The decisions made by courts in past cases affect the decisions made by judges of similar cases today. In the same way, decisions of today's judges will affect cases in the future."

"How does a lawyer know what has been decided in other cases?"

"The judges' decisions are recorded in books that fill many shelves in law libraries," his uncle replied. "And new volumes are added every year."

"Does that mean that our laws are always changing?"

"Yes it does. There can be no such thing as a perfect system of laws. The laws must be changed or given new interpretations to keep up with changing public opinion. That is just as true for written laws such as the Criminal Code as it is for the common law."

"When you get older, I hope you will keep asking questions about laws," Bill's uncle continued. "You may even want to get some of them changed. That will be your right and your responsibility, because they are *your* laws."

"My laws?" Bill said with some surprise.

"That's right. When you are older, you will have the right to vote for the people who make our laws. If these representatives don't make the kind of laws you want, you can vote for others who will."

"What if there is a law you don't agree with? What can you do about it?"

"You can try to get other people to see your point of view. If enough citizens think a law is wrong, the government will pay attention."

"What if the law isn't changed?"

"Then you must obey it, Bill," Uncle Ted said. "That's how democracy works. The majority rules. If people were permitted to break laws they didn't like, there would be many more bank robbers. The highways would be so dangerous that I wouldn't dare take my car out of the garage!"

"A policeman told me that most people obey the laws because we know they are for our own protection."

"I'm sure he's right," the lawyer said. "But without effective laws and law enforcement, a handful of people could destroy society. We'd be right back where we were ten thousand years ago."

"The law of the jungle," Bill murmured, recalling his conversation with his teacher.

HOW OUR COURTS DECIDE WHO HAS BROKEN THE LAW

"Of course, even the best of laws aren't worth much unless there is a fair way of deciding who has broken them," Bill's uncle continued. "It's taken many hundreds of years to achieve the system of justice we have in Canada today."

"How was it done in the old days?" Bill asked.



Decisions made in past court cases are recorded in law books to guide today's judges and lawyers.

"At one time, in Europe an accused man might be tied up and thrown into a lake. If he floated, he was declared innocent, fished out and set free. Another method was to have the accused man fight with his accuser. That was called trial by combat."

"That certainly doesn't make much sense," Bill said.

"Some people were tortured until they confessed. Or they were executed or put in prison without having a chance to defend themselves."

"How do we make sure that a person accused of a crime will be treated fairly?" Bill asked.

"You should remember the basic idea behind our system of justice," Bill's uncle said. "A man is presumed innocent until he is proven guilty. That protects the accused person in many ways."

"What happens after he is arrested?"

"He can't be held in jail unless he is charged

with a specific crime in a public hearing. He doesn't have to answer questions or make a statement. And, of course, he is entitled to a lawyer to safeguard his interests."

"If the accused is regarded as dangerous or likely to repeat the offence the Court can require that he be held in custody. Most suspects are released after promising to appear for trial. Some are required by the judge to put up bail before they are released—in the form of money, a house or other acceptable security—to make sure that they appear for trial."

"But what if he can't afford a lawyer?" Bill asked.

"In that case, the Ontario Legal Aid Plan operated by the provincial law society and paid for by the provincial government provides payment for a lawyer."

"I certainly would like to see a trial," Bill said.

"That's a good idea. It's the best way to understand how our system of justice works. Most types of trials are open to the public and to news reporters. That helps to protect the accused from unfair treatment in court."

"What happens at a trial?" Bill asked.

"You may have picked up some wrong ideas from television programs and movies," the boy's uncle said. "They sometimes suggest that the prosecuting attorney who represents the government will do anything to make sure the accused person is found guilty. In actual fact, the Crown Attorney, as he is called in Canada, wants to make sure that no innocent person is convicted."

"What does the Crown Attorney do at the trial?"

"He calls people who know something about the crime into the witness box. The Crown Attorney asks questions which must be answered truthfully. Then the accused person's lawyer, who is called the defense counsel, questions the same witnesses to bring out the other side of the story. This is called cross-examination."

"The defense counsel can also call witnesses to testify on behalf of his client," Bill's uncle continued. "He asks questions that he hopes will disprove the evidence against the prisoner. Of course, the Crown Attorney can cross-examine these witnesses."

"What does the judge do?" Bill asked.

"For one thing, he makes sure the trial is conducted fairly and according to the law. And, in many cases, he decides on the guilt or innocence of the accused person, after hearing all the evidence."

"I thought the jury made that decision," Bill said.

"Not in all cases. There is always a jury for very serious crimes such as murder," his uncle replied. "And people accused of other serious crimes can have a jury trial if they wish. But many of them prefer to have a judge make the decision."

"It must be very difficult to decide whether a person is really guilty or not," Bill suggested.

"Yes, I am sure it is in some cases. Remember what I said before. A person accused of a crime must be judged not guilty if his guilt is not fully proven. If the judge or jury has any reasonable doubts about it, the man must be declared not guilty and set free."

As Bill walked home from his uncle's house, he thought about all he had learned about the laws we live by. The time had come to set to work on his project. But how should he begin?

Later, as he read over his notes, he wrote down six questions. He felt that if he could answer them well, he would have an interesting project.

Bill Johnson decided to answer six questions in his school project.



How would *you* answer these questions?

1. Why do we need laws?
2. What would happen if nobody obeyed the laws?
3. Why do we have policemen?
4. Can I think of a law that doesn't seem fair? Why? What should I do about it?
5. Why do we have courts?
6. What laws are of special benefit to me?



Provincial
Secretariat
for Justice

The Honourable Robert Welch, Q.C.
Provincial Secretary for Justice

